



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,183	11/19/2003	Tom Carhart	PA4612US	5977
22830	7590	07/20/2009	EXAMINER	
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303				NGUYEN BA, HOANG VU A
ART UNIT		PAPER NUMBER		
2421				
MAIL DATE		DELIVERY MODE		
07/20/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/717,183	CARHART ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hoang-Vu A. Nguyen-Ba	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 April 2009.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5, 7-21 and 46-53 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5, 7-21 and 46-53 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/21/09.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This action is responsive to the request for reconsideration filed March 27, 2009
2. Claims 1-5, 7-9, 11-21 and 46-53 are pending. Claims 1, 14 and 20 are independent claims.

### ***Information Disclosure Statement***

3. The Office acknowledges receipt of the Information Disclosure Statement filed April 21, 2009. It has been placed in the application file and the information referred to therein has been considered.

### ***Response to Arguments***

4. Applicants' arguments have been fully considered but they are not persuasive. The following is an examiner's response to Applicants' arguments.

With respect to the Office's objection to the limitation *episodic* not originally recited in the claims and not supported in the specification, the examiner respectfully disagrees with Applicants' arguments that the cited portions (7:4-7, 12:8-9, 13:4-5, 7:8-12) by Applicants show the episodic aspect of the content. Contrary to Applicants' assertion, the term "Episodic," which is, according to Merriam-Webster Online's definition 4, occurring, appearing, or changing at usually irregular intervals: Occasional <an *episodic* illness>, implies a notion of an event that is not changed continually as specifically and distinctly described in Applicants' specification at 7:8-12 (e.g., "... digital media with ... continually refreshed content of the radio experience."). Therefore, the objection to the term *episodic* or any description that may imply a notion of changing at irregular intervals not being explicitly or implicitly supported in Applicants' disclosure is considered proper and maintained.

With respect to Applicants' arguments that Arora does not teach the claimed episodic content, the examiner respectfully disagrees with Applicants' assertion. As clearly indicated, in at least Claim 53 in Arora, representations of some of the media channels to be displayed are

updated (i.e., *dynamic*) more frequently than the representations of other media channels of the list of media channels to be displayed, where the frequency of update is based on the relationship between each media channel and the viewing patterns (i.e., *episodic*). Thus, the application of Arora regarding the claimed dynamic and episodic content is considered proper and maintained.

Contrary to Applicants' assertion that Arora fails to disclose the user selection/combination of dynamic and episodic content, it should be noted that the step of presenting a user with a selection of pre-defined channels is considered to be disclosed by Kloba (e.g., see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587). The office action does not appear to show that this step is disclosed by Arora. Only the dynamic and episodic aspect of Arora is used in combination with Kloba. Thus, Applicants' assertion is considered moot.

Contrary to Applicants' assertion that the Office fails to address the limitation *supplemental media content*, the Office notes that in FIG. 5C, step 542 indicates that a user is prompted to manually enter user's favorite web-site information. The addition of web-site information is interpreted to mean supplemental media content since, the web-site information is interpreted to mean supplemental media content.

Contrary to Applicants' assertion that Kloba (15:52-67) does not teach transferring content to a portable device, the examiner respectfully notes that 15:52-67 should be interpreted in the context of Kloba teachings which relates to a system, method and computer program product for customizing channels, content and data for mobile devices (see at least Title).

According to the foregoing discussion, the rejection of the claims as being unpatentable over Kloba-Arsenault-Arora is considered proper and maintained.

### ***Claim Rejections – 35 USC § 103***

5. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-9, 11-12, 14, 16-20 and 51-53 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,421,717 to Kloba et al. (“Kloba”) in view of U.S. Patent No. 6,701,528 to Arsenault et al. (“Arsenault”) and further in view of U.S. Patent Application Publication No. 2003/0018972 by Arora.

It should be noted that hereinafter the use of the clause “see at least” should be interpreted that the cited portions that follow the clause are not the only portions that are considered to be relevant. Should Applicant find that the cited portions are not relevant, other portions of the disclosure of the prior art reference will be provided as additional evidence and/or context to the relevancy of the previously cited portions. Since the evidence is from the same reference, the introduction of the additional evidence in response to Applicant’s arguments should not therefore be considered to be that of new grounds of rejection.

### **Claim 1**

Kloba discloses at least *a method for providing a personal media service, the method comprising:*

*presenting a user with a selection of pre-defined channels* (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

*storing media content of at least two pre-defined channels provided by a remote publisher in a local cache prior to selection by the user.*

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user’s request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault’s technique of pre-storing segments of a selected video program in a local storage before a user’s request for viewing in the combination of Kloba-

Arsenault because the use of this feature would allow virtual real-time viewing of the selected media content.

The combination of Kloba-Arsenault further discloses:

*receiving input from the user specifying a custom channel as a combination of at least two pre-defined channels of the selection (Kloba; see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M); and*

*making the custom channel and both of the at least two-predefined channels provided by the remote publisher immediately available for playback from the local cache notwithstanding a connection state of the personal media service (it is noted that the claimed “notwithstanding a connection state of the personal media service” is nowhere disclosed in Applicants’ specification; even assuming that the limitation does find proper support from the specification, it is further noted that Kloba does teach that a page can be obtained from the cache of the client 108 in on-line mode – FIG. 1F2 and 17:35-64).*

The combination of Kloba-Arsenault does not specifically disclose that the content is *of dynamic, episodic content.*

However, in an analogous art, Arora teaches portions of media channels that are updated over a predetermined time period, i.e., dynamic and episodic (see at least claims 13, 14, 53, 91, 92, 128 and 129) (it is noted that the claimed limitation “episodic” is nowhere found in Applicant's specification).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature of updating periodically the content as taught by Arora in Kloba because the updating would trigger the sync process between the client and the server so that the client's cache could be updated, thereby ensuring that contents are always up-to-date whether the mobile device of Kloba is off-line or on-line.

### **Claim 2**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *playing back interleaved media content of the at least two pre-defined channels that have been combined into the custom channel* (Kloba; see at least FIG. 1M, “Music,” Movies,” etc.; 17:1-3).

### **Claim 3**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein providing the user with a selection of pre-defined channels includes displaying a list of the pre-defined channels* (Kloba; see at least FIG. 1C, step 160D).

### **Claim 4**

The rejections of base claim 1 and intervening claim 3 are incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein the received input includes icons dragged from the list representing the first and second pre-defined channels to a screen area used to configure the custom channel* (Kloba; see at least FIG. 44, e.g., “drag the AvantGo AutoChannel).

### **Claim 5**

The rejections of base claim 1 and intervening claims 3-4 are incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein content from the first and second pre-defined channels are given substantially equal time during playback* (Kloba; see at least 18:18 – 19:14).

### **Claim 7**

The rejection of base claim is incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein at least one of the pre-defined channels includes user owned content* (Kloba; see at least FIG. 14, e.g., “Personal Channels”).

**Claim 8**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein at least one of the pre-defined channels includes content broadcasted via the Internet* (Kloba; see at least FIG. 1AB).

**Claim 9**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein at least one of the pre-defined channels includes content broadcast via airwaves* (Kloba; see at least FIG. 30).

**Claim 11**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *sending information specifying content of the custom channel via a network* (Kloba; see at least FIG. 30).

**Claim 12**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *transmitting media content of the local cache to a remote location via a network upon receipt of authentication information from the remote location* (Kloba; see at least FIG. 1S, steps 192G-I; FIGs.28-29).

**Claim 51**

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *transferring the custom channel to a portable device for playback when the personal media service is in an offline state* (Kloba; see at least 15:63-67).

**Claim 14**

Kloba discloses at least *a method for providing a personal media service, said method comprising:*

*presenting a user with a group of pre-defined channels* (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

*wherein content corresponding to the group of pre-defined channels is stored in a local cache prior to selection by a user.*

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user's request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault's technique of pre-storing segments of a selected video program in a local storage before a user's request for viewing in Kloba because the use of this feature would allow virtual real-time viewing of the selected media content.

The combination Kloba-Arsenault further discloses:

*accepting a user selection of at least two of the pre-defined channels* (Kloba; see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M);

*interleaving supplemental media content with media content of the at least two selected pre-defined channels* (Kloba; see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M); and

*caching the selected supplemental media content along with the two pre-defined channels to make the cache media content available for immediate playback notwithstanding a connection state of the personal media service* (Kloba; see at least FIG. 1C, step 160E; FIG. 5A, steps FIG. 585, 587; it is noted that the claimed "notwithstanding a connection state of the personal media service" is nowhere disclosed in Applicants' specification; even assuming that the limitation does find proper support from the specification, it is further noted that Kloba does teach that a page can be obtained from the cache of the client 108 in on-line mode – FIG. 1F2 and 17:35-64),

*wherein playback of media content of a first one of the selected pre-defined channels is interspersed with the supplemental media content* (Kloba; see at least Abstract; note that operating off-line means that the content is stored on the handheld device, is thus immediately available to the user when needed without connecting to any server; FIG. 1C, “User surfs Web off-line by reading cached pages”).

The combination of Kloba-Arsenault does not specifically disclose that the content is *of dynamic, episodic content*.

However, in an analogous art, Arora teaches portions of media channels that are updated over a predetermined time period, i.e., dynamic and episodic (see at least claims 13, 14, 53, 91, 92, 128 and 129) (it is noted that the claimed limitation “episodic” is nowhere found in Applicant's specification).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature of updating periodically the content as taught by Arora in the combination of Kloba-Arsenault because the updating would trigger the sync process between the client and the server so that the client's cache could be updated, thereby ensuring that contents are always up-to-date whether the mobile device of Kloba is off-line or on-line.

### **Claim 16**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora further discloses

*receiving information about user preferences from the user* (Kloba; see at least 5A, step 518; e.g., the user preferences being the selected category; FIG. 5B, e.g., step 585); *and*

*selecting the supplemental media content based on said user preferences* (Kloba; see at least 5A, step 520; FIG. 5B, step 587).

### **Claim 17**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *playing the second selected channel interspersed with the supplemental*

*media content after playing the first selected channel interspersed with the supplemental media content while continuing to advance through the supplemental media content* (Kобра; see at least FIG. 1M, “Music,” Movies,” etc.; 17:1-3).

### **Claim 18**

The rejection of base claim 14 is incorporated. The combination of Kобра-Arsenault-Arora further discloses *wherein selecting the supplemental media content includes a selection based on a current location of a portable device* (Kобра; see at least FIG. 31, “Location:”).

### **Claim 19**

The rejections of base claim 14 and intervening claim 18 are incorporated. The combination of Kобра-Arsenault-Arora does not specifically disclose *wherein the location of the portable device is determined using the Global Positioning System( GPS)*.

However, this feature is deemed inherent to Kобра since Kобра enables web content to be loaded on mobile devices (1:61-67) similar to an Internet enabled mobile telephone with a GPS receiver disclosed in WO-2001-063317, wherein the GPS receiver may be arranged to power up in response to the user selecting a particular web site, for example, a website associated with a location based service whereby the call location is determined in anticipation of a request from that website. Without the GPS, the mobile phone could not be located so that the web content could be downloaded to the mobile phone.

### **Claim 52**

The rejection of base claim 14 is incorporated. The combination of Kобра-Arsenault-Arora further discloses *transferring the cache media content to a portable device when the personal media service is in an offline state* (Kобра; see at least 15:52-67).

### **Claim 20**

Kобра discloses at least *a method of providing a personal download media service, the method comprising:*

*receiving a series of preferences from a user* (see at least FIG. 5A, steps 514, 518);

*applying rules to the preferences to identify a list of pre-defined channels available to the user* (see at least FIG. 5A, steps 520, 516);

*displaying the list of pre-defined channels to the user* (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

*locally caching at least two of the pre-defined channels prior to selection by the user so that either of the cached pre-defined channels is available for immediate playback notwithstanding a connection state of the personal download media service* (it is noted that the claimed “notwithstanding a connection state of the personal media service” is nowhere disclosed in Applicants’ specification; even assuming that the limitation does find proper support from the specification, it is further noted that Kloba does teach that a page can be obtained from the cache of the client 108 in on-line mode – FIG. 1F2 and 17:35-64).

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user's request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault's technique of pre-storing segments of a selected video program in a local storage before a user's request for viewing in Kloba because the use of this feature would allow virtual real-time viewing of the selected media content.

The combination of Kloba-Arsenault does not specifically disclose that *each of the pre-defined channels providing dynamic, episodic content*.

However, in an analogous art, Arora teaches portions of media channels that are updated over a predetermined time period, i.e., dynamic and episodic (see at least claims 13, 14, 53, 91, 92, 128 and 129) (it is noted that the claimed limitation “episodic” is nowhere found in Applicant's specification).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature of updating periodically the content as taught by Arora in the combination of Kloba-Arsenault because the updating would trigger the sync process between the client and the server so that the client's cache could be updated, thereby ensuring that contents are always up-to-date whether the mobile device of Kloba is off-line or on-line.

### **Claim 53**

The rejection of base claim 20 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *transferring the cache content to a portable device when the personal media service is in an offline state* (Kloba; see at least 15:52-67).

7. Claims 13, 21 and 46-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,421,717 to Kloba et al. ("Kloba") in view of U.S. Patent No. 6,701,528 to Arsenault et al. ("Arsenault") and further in view of U.S. Patent Application Publication No. 2003/0018972 by Arora.

It should be noted that hereinafter the use of the clause "see at least" should be interpreted that the cited portions that follow the clause are not the only portions that are considered to be relevant. Should Applicant find that the cited portions are not relevant, other portions of the disclosure of the prior art reference will be provided as additional evidence and/or context to the relevancy of the previously cited portions. Since the evidence is from the same reference, the introduction of the additional evidence in response to Applicant's arguments should not therefore be considered to be that of new grounds of rejection.

### **Claim 13**

The combination of Kloba-Arsenault-Arora does not specifically disclose:

*developing information specifying a media content type to be recorded based on user input,*

*monitoring content of one of the pre-defined channels;*  
*analyzing the content to capture a content identification signature; and*  
*recording the content for later playback only if the content identification signature indicates correspondence to the media content type.*

However, official notice is taken that these features are well known in the art

and built-in to most of the media players existing at the time of the invention. One of the media players is Microsoft® Windows Media Player® (WMP), which features means for developing information specifying a media content type to be downloaded and saved/burned on CDs/DVDs of user's PC (see WMP help menu, Introducing WMP/Organizing your files/Adding items to your library), means for monitoring (see WMP help menu, Introducing WMP/Organizing your files/Adding items to your library/To add items to your library/Automatically add digital media files from folders that you want the Player to monitor), means for analyzing content to capture content identification which are inherent to WMP to ensure compliance with Digital Rights Management (DRM) and means for recording and preserving content (e.g., burning a CD/DVD) for the purpose of facilitating the purchase and download of media content from the Internet to user's PC.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate these well-known features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the purchase and download of media content from the Internet to mobile devices.

### **Claim 15**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora does not specifically disclose *wherein playing back media content includes:*

*maintaining a pointer within the supplemental media content; and*

*playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the playback of media contents in the combination.

**Claim 21**

The rejection of base claim 20 is incorporated. The combination of Kloba-Arsenault-Arora does not specifically disclose

*playing back media content of at least one of the pre-defined channels;  
receiving a command from the user to skip a portion of the media content;  
skipping the portion of the media content and then  
transmitting information indicating skipped portion of the media content to a  
remote monitoring site.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the playback of media contents in the combination.

**Claim 46**

The rejections of base claim 1 and intervening claim 3 are incorporated. The combination of Kloba-Arsenault-Arora *wherein the received user input includes a mouse click indicating selection from the list representing the first and second pre-defined channels.*

However, official notice is taken that the use of a mouse to select an item of a list displayed on a monitor screen is well known in the art for the purpose of facilitating the user interactivity with a program.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a mouse as an user interface device in the combination of Kloba-Arsenault-Arora for the purpose discussed above.

**Claim 47**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora does not specifically disclose *wherein playing back media content includes:*

*maintaining a pointer within the media content; and*

*playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the playback of media contents in the combination.

#### **Claim 48**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora does not specifically disclose *wherein playing back media content includes:*

*maintaining a pointer within the meta-tag associated with the media content; and*  
*playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the playback of media contents in the combination.

#### **Claim 49**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora further discloses *wherein the supplemental media content includes an advertisement* (Kloba; see at least FIG. 10, e.g., Yahoo! Classified –Listings).

**Claim 50**

The rejection of base claim 14 is incorporated. The combination of Kloba-Arsenault-Arora does not specifically disclose:

*playing back media content of at least one of the pre-defined channels;*  
*measuring play back of supplemental media; and*  
*transmitting information indicating play duration of supplemental media to a remote monitoring site.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination of Kloba-Arsenault-Arora for the purpose of facilitating the playback of media contents in the combination.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu “Antony” Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2400 Group receptionist (571) 272-2400.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/

Primary Examiner, Art Unit 2421

July 19, 2009